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FILED
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CLERK OF DISTRICT COURT

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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

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11 SECURITIES AND EXCHANGE
12 COMMISSION

13 PLAINTIFF,

14 vs.

15 SMALL BUSINESS CAPITAL CORP., MARK
16 FEATHERS, INVESTORS PRIME FUND, LLC,
AND SBC PORTFOLIO FUND, LLC

17 DEFENDANTS.
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Case No. CV12-03237-EJD

MARK FEATHERS' NOTICE OF
MOTION AND MOTION FOR:

- RELIEF FROM SUMMARY JUDGMENT UNDER FEDERAL RULES OF CIVIL PROCEDURE 60(b)1, 2, & 3
- IF THIS LAWSUIT IS NOT DISMISSED OUTRIGHT, REQUEST FOR GRANTING OF LEGAL FEES TO MARK FEATHERS OF \$200,000 ALREADY ORDERED BY THE COURT TO HAVE BEEN RESERVED BY THE RECIEVER
- REQUEST FOR APPROVAL OF DISCOVERY, SHOULD THAT BE NECESSARY

Ctrm: 4 - 5th Floor
Date: November 14th, 2014
Time: 9:00 a.m.
Judge: Hon. Edward J. Davila

NOTICE OF MOTION AND MOTION

TO ALL PARTIES AND THEIR COUNSEL OF RECORD, PLEASE TAKE NOTICE THAT, on Nov. 14, 2014, at 9:00 a.m. or as soon as the matter may be heard, in Courtroom 4, Floor 5, of the United States District Court for the Northern District of California, 280 S. 1st St., San Jose, California, Mark Feathers will and hereby does move the Court for Relief From a Judgment or Order, due to gross misconduct, which is continuing, of SEC, and SEC's obstructions of justice, and of prior mistake of the Court because of acts and actions of SEC, pursuant to Rule 60(b) 1, 2, & 3 of the Fed. Rules of Civil Procedure, and, in case this lawsuit is not fully dismissed, a new trial under Federal Rule of Civil Procedure 59(b). The motion is made on the ground that as to issues set forth in the motion there is no genuine issue as to material facts, and the accompanying brief in support of the motion, the declarations of Mark Feathers, and such other written or oral argument as may be presented at or before the time this Motion is taken under submission by the Court. The documents and evidence to be relied upon for the requested relief are not conclusions. They are evidentiary documents and other exhibits and other information just newly provided to Mark Feathers by SEC, the Plaintiff, which SEC did not provide to Feathers or the Court prior, and portions of which are attached as exhibits to the Memorandum of Points and Understanding, and other exhibits referenced in the Memorandum and included as additional exhibits. At or about the same time as notification to all parties and their counsel of record of this Motion and Motion hearing date, Mark Feathers will be submitting a request for leave of the 9th Circuit for this Motion.

STATEMENT OF ISSUES (Local Rule 7-2)

1. Should the Court void its prior summary judgment?
2. Is SEC on occasion selectively prosecuting against Constitutional guidelines and using its "Whistleblower" program as a vehicle for a means to SEC's own ends?
3. Has SEC suppressed information from the Court and parties to the lawsuit for its self-serving purposes while causing obstructions of justice because of this?
4. Should the Court allow legal fees to be awarded and allow a period for discovery?

Relief from summary judgment is appropriate. The issues raised herein are fact based, supported on an evidentiary basis, and confirmed with exhibits attached or accompany the motion.